IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

F.A.O. No. 532 of 2001
Date of Decision : April 21, 2009

Baghel Singh

.....Appellant

Versus

Raj Kumar and others

.....Respondents

CORAM : HON'BLE MR JUSTICE T.P.S. MANN

Present : Mr. Sourav Garg, Advocate for
Mr. K.S. Dadwal, Advocate
for the appellant.

Mr. Paul S. Saini, Advocate
for respondent No.3.

T.P.S. MANN, J. (Oral)

The claimant has preferred the present appeal against the award dated 20.12.2004 passed by the Motor Accidents Claims Tribunal, Hoshiarpur and has prayed for enhancement of the amount of compensation for the injuries received by him in a motor vehicular accident. Vide impugned award, learned Tribunal awarded him an amount of Rs.3,00,000/- as compensation.

On account of the rash and negligent driving of jeep No. PCR-6944 by respondent No.1, the appellant received injuries as the jeep struck against the motor cycle which the appellant and his son were riding. The appellant was referred to DMC, Ludhiana in a serious condition. According to the appellant, he was 50 years of age at the time of the accident and working as an insurance agent with M/s New India Assurance Company and

drawing monthly income of Rs.15,000/- to Rs.20,000/-. Accordingly, the appellant had sought an amount of Rs.10,00,000/- as compensation.

After hearing learned counsel for the parties and perusing the evidence, learned Tribunal came to a conclusion that the appellant was entitled to receive Rs.80,000/- towards medical expenditure, Rs.20,000/- as transportation charges and Rs.2,00,000/- for the pain and suffering. Accordingly, he was awarded a total amount of Rs.3,00,000/- as compensation.

Learned counsel for the appellant has submitted that on account of the injuries received by him as a result of rash and negligent driving by respondent No.1, the appellant is unable to take care of himself. The petitioner is still receiving regular treatment and incurring huge amounts on the medicine with a hope that he may regain his consciousness but to no avail.

Learned counsel for the respondent-Insurance Company has submitted that though the appellant received serious injuries and as a result thereof, his memory has been impaired, yet the possibility could not be ruled out if he could recover altogether. Therefore, it is not a fit case for enhancement of the amount of compensation.

Though, Dr. Munish Kumar Goyal, AW5 did state in his cross-examination that possibility could not be ruled out of the appellant recovering 100% yet as a period of one year had already elapsed, therefore, chances of 100% recovery were quite less. The wife of the appellant had stepped into the witness box as AW6 and testified about the condition of her husband by submitting affidavit AW6/A. She described therein that on

account of the injuries, the appellant had lost his balance of mind and his memory had weakened. The appellant was not in a position to think what was good or bad for him and he was being looked after by her. Because of his condition, he could not step into witness box to make a statement about all these facts.

Taking into consideration the aforementioned facts, the amount of Rs.2,00,000/- awarded to the appellant for loss of income and for the pain and suffering is highly inadequate and deserves to be enhanced to Rs.3,50,000/-. Therefore, the total amount of compensation to which the appellant would be entitled to is enhanced from Rs.3,00,000/- to Rs.4,50,000/-.

Resultantly, the appeal is allowed by enhancing the amount of compensation payable to the appellant from Rs.3,00,000/- to Rs.4,50,000/-. The liability to pay the enhanced amount of compensation shall be joint and several of the respondents. The appellant shall also be entitled to receive interest on the enhanced amount of compensation at the rate of 7.5% per annum from the date of filing of the claim petition till its realisation. The entire amount of enhanced compensation along with interest accruing thereupon be deposited by the respondent-Insurance Company with the learned Tribunal within three months from today. The same shall, thereafter, be disbursed in favour of Smt. Satinder Kaur, wife of the appellant against proper receipt and identification.

(T.P.S. MANN)
JUDGE

April 21, 2009
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